

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 118/2003

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet O.A-118/2003..... Pg..... 1 to..... 3
2. Judgment/Order dtd. 19/09/2003..... Pg..... 1 to..... 3 disposed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 118/03..... Pg..... 1 to..... 17
5. E.P/M.P..... Pg..... to.....
6. R.A/C.P..... Pg..... to.....
7. W.S. Respondents Nos. 1, 2, 3 & 4..... Pg..... 1 to..... 5
8. Rejoinder filed by Applicant..... Pg..... 1 to..... 6
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. ~~Memo of Appearance~~.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (JUDI.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 118 2003

Misc. Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - Md. Joymal Abedin

Respondents: - U.O.F. & Ors.

Advocate for the Applicants: - Mrs. M. Das

Advocate for the Respondents: - A.K. Chaudhury, Addl. case

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. C.R. Petition is filed and filed C.P. for S.S. & deposited vide IPO/BID No. 490862	3.6.2003	Heard Mrs. M. Das, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. List again on 4.7.2003 for admission.
Dated..... 29.5.03.		
<i>Done by Dr. Registrar</i>	mb	
Steps Taken. 21/6/03	4.7.2003	Put up again on 8.8.2003 to enable the respondents to file reply, if any.
<i>20 21/6/03</i>	mb	
Please get the synopsis immediately <i>8/7/03</i>	29.8.03	On the prayer of learned counsel for the parties case is adjourned. to 5.9.03 for orders.
<i>21/6/03</i>	lm	

One copy short. Notice
prepared & sent to D/o
for issue the certificate
No. 1 to 4 by Regd. KID.
D/o No. 1192 to 1195
D/o 6/6/03

8.8.2003 Respondents have already filed written statement. The application is admitted. No fresh notice need to be issued. List again on 12.8.2003 for hearing.

Dr
6/6/03.

Vice-Chairman

⑥ Service report via mb

Still awaited.

My
3/7/03.

No. reply from
been bked.

My
7/8/03.

mb

12.8.2003 Prayer has been made by Miss U. Das, learned counsel on behalf of the Mrs. M. Das, learned counsel for the applicant for adjournment of the case. The case is accordingly adjourned. Put up again on 29.8.2003 for hearing.

Vice-Chairman

written statement
bked on behalf
of the R.No-1,2,3
and 4.

My
11/8/03.

5.9.2003

On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents the case is adjourned. List on 12.9.2003 for hearing.

Vice-Chairman

4.9.03
Rejoinder submitted
by the applicant.

mb

My

12/9/03

O.A.118/2003

Office Note	Date	Tribunal's Order
	12.9.2003	<p>present: The Hon'ble Mr.K.V.Prahaladan Administrative Member.</p> <p>The case is adjourned and listed on 19.9.2003 again for hearing.</p> <p><i>KV Prahaladan</i> Member</p>
<u>23.9.2003</u> Copy of the judgment was sent to the D/Secy. for issuing the same to the applicant as well as to the Addl. C.G.S.C. for the Respon. <i>AK</i> <i>Reed Chancery Adell Ch 56 24/9/03</i>	19.9.2003 bb	<p>Heard counseling for the parties. Hearing concluded, judgment delivered in open Court, kept in separate sheets.</p> <p>The application is disposed of in terms of the order. No costs.</p> <p><i>KV Prahaladan</i> Member</p>

Office Note	Date	Tribunal's Order

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./XXX. No. 1111 118 of 2003.

DATE OF DECISION 19.9.2003.

..... Md. Joynal Abedin APPLICANT(S).

..... Mrs. M. Das ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

..... Union of India & Others RESPONDENT(S)

..... Mr. A. K. Chaudhuri, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. K. V. PRAHALADAN, ADMINISTRATIVE MEMBER.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Member (A). *KV Pahadan*

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.118 of 2003.

The Date of Order : This the 19th Day of September, 2003.

THE HON'BLE MR. K.V.PRAHALADAN, ADMINISTRATIVE MEMBER.

Md. Joynal Abedin
S/o Late Saman Ali
Post Man, Rajapara Sub Post Office
Main Post Office, Goalpara
Dist: Goalpara, Assam. Applicant.

By Advocate Mrs.M.Das.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Department of Posts
New Delhi.
2. Chief Post Master General
Assam Circle, Meghdoot Bhawan
Panbazar, Guwahati-1.
3. Superintendent of Post Offices
Goalpara Division
Dhubri.
4. Inspector Cum Assistant
Superintendent of Post Offices
Goalpara Sub-Division?
Goalpara. Respondents.,

By Mr.A.K.Chaudhuri, Addl.C.G.S.C.

O R D E R

K.V.PRAHALADAN, MEMBER(ADMN.):

The application has been filed disputing the retirement on 30.9.2003. The applicant claims that his retirement is on 5.4.2009.

1. The applicant, after successful training, was allotted to the post of Postman at Matia Post Office under the Goalpara Sub-Division vide order dated 8.9.1973. The applicant joined the said post on 18.9.1973. Vide order no.A-1/CP dated 3.5.1975 the Inspector of Post Offices, Goalpara Sub-Division directed the applicant to fill up the declaration form enclosed with the letter and to furnish the particulars of him including the school certificate. As

LCP

per school certificate the applicant's date of birth was 4.4.1949. The applicant further stated that at the time of appointment also he submitted his age certificate showing his date of birth 4.4.1949. On 15.2.1994 the applicant came across his GPF Final Withdrawal sanction wherein his date of superannuation was shown as 30.9.2003. Thereafter the applicant submitted a representation dated 25.2.1994 before the Superintendent of Posts, Goalpara Division, Dhubri requesting for correction of his date of birth. So far no reply seems to have been given by the respondents. Then the applicant received a letter dated 6.2.2003 issued by the Superintendent of Post Offices, Goalpara Division asking him to fill up his retirement claims, since his is retiring on 30.9.2003.

2. The respondents, in the written statement denied and disputed the claims of the applicant. In the written statement the respondents claimed that in the Service Book the date of birth of the applicant was shown as ~~5.4.1949~~ ^{5.9.1943} ~~1943~~ which was attested by the Govt. servant himself. The respondents said that the retirement should be based on the entry made in the Service Book signed by the applicant and the appointing authority on 21.12.1974. The applicant denied signing the Service Book. It was not his signature, he claimed. In the written statement the respondents denied that they had received any application for correction of date of birth as claimed by the applicant.

3. I have heard Mrs. M. Das, learned counsel for the applicant and also Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents at length.

4. As per the existing rules in case of any dispute or change of date of birth, the final evidence may be school certificate, municipal certificate as well as the records in the Service Book. If the date of birth in the Service Book is to be corrected, that can be done by Head

of Department only if the same is a clerical error.

5. After hearing both the sides, I am of the view that ends of justice will be met if a thorough enquiry is conducted at the level of Post Master General to find out the exact date of birth of the applicant and also to enquire into the entries in the Service Book as disputed by the applicant. Accordingly, the respondents are directed to make a thorough enquiry at Post Master General level as to the correct date of birth of the applicant and also the veracity and genuineness of entries made in the Service Book, providing the applicant due opportunity to defend his case. Since the respondents claims that the applicant is retiring on 30.9.2003, the enquiry should be completed expeditiously with the maximum speed i.e. within a period of one month from the date of receipt of the order. If the applicant is aggrieved with the outcome of the enquiry, he may approach the appropriate forum.

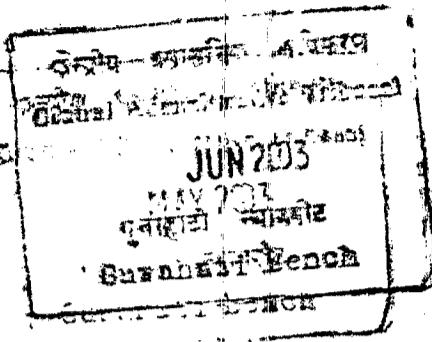
Subject to the observations made above, the application stands disposed of. There shall, however, be no order as to costs.


(K.V.PRAHALADAN)
ADMINISTRATIVE MEMBER

bb

10

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
AT GUWAHATI.



O.A.No. 118 /2003

Md. Joynal Abedin **Applicant**

-Vs-

The Union of India & Ors. **Respondents.**

LIST OF DATES.

<u>ANNEXURES</u>	<u>CONTENTS</u>	<u>PAGE NOS.</u>
1. - 1	Order dt. 8.9.73 of allot- ment to the post of Post Master. man	11 - 12
2. - II	Letter 3.5.75 issued in respect submission docu- ments and particular.	13
3. - III	Birth Certificate dt. 21.5.75 issued by the school.	14
4. - IV.	Confirmation letter dt. 25.6.76.	15
5. - V.	Representation dt. 25.2.94 requesting to correct the date of birth.	16
6. - VI	Letter dt. 6.2.03	17

Filed by :-

Manjul Baruah
Advocate 30/5/03

Central Administrative Tribunal

Guwahati Bench, Assam

JUN 2003

Guwahati Bench

Filed by =
Jyognal Abedin
Mangaldas, Aditya
S. No. 5704

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::GAUHATI BENCH
AT GUWAHATI.

O.A. No. 118 /2003.

-BETWEEN-

Md. Joynal Abedin,

Son of Late Saman Ali,

Post Man, Rajapara Sub Post Office,

Main Post Office - Goalpara,

Dist. Goalpara, Assam.

..... Applicant.

-VRS-

1. The Union of India, represented by

the Secretary to the Govt. of India,

Posts Department, New Delhi,

2. Chief Post Master General, Assam

Circle, Meghdoot Bhavan, Panbazar,

Guwahati-1.

3. Superintendent of Post Offices,

Goalpara Division, Dhubri.

4. Inspector Cum Assstt. Superintendent

of Post Offices, Goalpara Sub-

Division, Goalpara.

..... Respondents.

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION
IS MADE :-

The present application is not against any specific order but against the letter dated 6.2.03 issued by the Superintendent of Post Offices, Goalpara Division, Dhubri addressed to S.D.I./A.S.P.Os, Goalpara with a copy to the applicant, contained therein the retirement of the applicant

as on 30.9.2003 and to submit pension papers accordingly. The application is being preferred for a direction to the respondents that the date of birth on 4.4.49 as per birth certificate submitted at the time of entering in service should be acted upon and for chasing the Govt. decision to this effect retiring him on 30.9.2003, which according to the applicant is more than six years before his actual date of superannuation.

2. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :-

The applicant further declares that the application is within the limitation period prescribed under section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :-

4.1. That the applicant is a citizen of India and is a permanent resident of Goalpara in the district of Goalpara, Assam. As such he is entitled to all the rights, protection and privileges guaranteed to a citizen of India under the Constitution of India and the laws for the time being in force.

4.2. That after being appointed and on successful completion of training the applicant was allotted to the post of Postman at Matiok, Post Office, under the Goalpara Sub-Division vide an order dated 8.9.73 under Memo No.B.2/ Postman. Thereafter the applicant joined in his service as Postman at Matiok Post Office on 18.9.73.

S Jayaraman Abhishek

Annex **that** A copy of the said order dated 18.9.73
is annexed herewith and marked as
Annexure-I.

4.3. That vide letter dated 3.5.75 under No.A-1/CP, the Inspector of Post Offices, Goalpara Sub-Division directing the applicant to fill up the declaration form enclosed with the letter and to furnish the particulars of the applicant including the school certificate. The applicant accordingly furnished duly filled up declaration form and other particulars including the age certificate. Further he declared his date of birth in the form as on 4.4.49 and as a proof he submitted his age certificate dated 21.5.75 issued by the Headmaster Lengtisinga Govt. Aided M.E. School, Goalpara District.

It is to be mentioned here that at the time of appointment also the applicant submitted his age certificate deceiving declaring as his date of birth on 4.4.49.

Copies of the letter dated 3.5.75 issued by the Inspector of Post Offices and the Birth Certificate dated 21.5.75 are enclosed herewith and marked as Annexures-II and III respectively.

4.4. That thereafter, the Inspector of Post Offices, Goalpara Sub-Division vide order dated 25.6.76 under ^{Memo} No.B-1/Staff/76-77 confirmed the services of the three officials including the applicant in their respective posts.

A copy of the said confirmation order dated 25.6.76 is enclosed herewith and marked as Annexure-IV.

4.5. That long after the services of the applicant as Postman, he suddenly on 15.2.94 came across with the GPF (General Provident Fund) Final Withdrawal section memo wherein it was shown the date of superannuation of the applicant as on 30.9.2003. In fact as per the school certificate which was submitted by the applicant at the time of initial appointment as well as confirmation of his services his date of birth was 4.4.49 and he is to retire on 5.4.2009 instead of 30.4.2003.

4.6. That, thereafter he immediately made an application dated 25.2.94 before the Superintendent of Posts, Goalpara Division, Dhubri requesting to correct the date of birth in accordance with the age certificate as submitted when the applicant entered in his service. Further he requested to correct the same if any mistake in the Service Book.

Post F 132 W Au
A copy of the application dated 25.2.94 is annexed herewith and marked as Annexure-V.

4.7. That the applicant begs to state that till now no reply whatsoever from the authority has been received by him in pursuance of his above application for correcting the date of birth. He, however, enquired the matter with the office of Asstt. Superintendent of Post Offices, Goalpara Division, Goalpara and well confirmed of his date of birth as 4.4.49 as per records available in the office. He also enquired the matter in the office of the Respondent No.3 and wanted to ascertain his date of birth in his Service Book. But he was not allowed to see the Service Book. In this case, it is also to be stated here that at the time of opening of the Service Book neither the signature or specific ^{mark} signature

have been taken from the applicant nor he was allowed to see the Service Book.

✓
Joynal abedin

4.8. That the applicant begs to state that he was shocked and surprised to receive a letter dated 6.2.2003 under No.02/Joynal Abedin, issued by the Respondent No.3, directing him to submit the pension papers saying that he is due to retire on superannuation w.e.f. 30.9.03(A/N). The said letter was issued without disposing of the representation dated 25.2.94 made by the applicant.

A copy of the above letter dt. 6.2.03 is annexed herewith and marked as Annexure-VI.

4.9. That the applicant respectfully begs to state that the Head of the Office should record the date of birth in the Service Book of a Non-Gazetted Government servant on his initial appointment with reference to the Matriculation or equivalent certificate and shall also record a remark to this effect in the Service Book. But in the case of applicant the authority did not record his date of birth in his Service Book correctly on the basis of School certificate although that was submitted two times; one at the time of appointment and subsequently at the time of confirmation of his service.

4.10. That the applicant begs to state that the provisions of S.R. 8(c) contemplates that if there is any dispute regarding the date of birth recorded in the Service Book and there is some prima-facie evidence, the competent authority should hold an enquiry in a matter for a decision and in such an enquiry the principles of natural justice should be followed. If the authority is satisfied after enquiry that the recorded

16
Original application

date of birth in Service Book was incorrect, the authority may alter/correct the date of birth. In the instant case, the authority totally ignored the Rules and Provision of Law. Further, the application dated 25.2.94 for correction of age made by the applicant was made within reasonable time after joining in service as and when he came to know the incorrect recording of date of birth in Service Book. But the authority not even care to follow the administrative rule and to dispose of the said application.

4.11. That the applicant respectfully begs to state that the retirement age of the Govt. servant shall be determined with reference to the date of birth declared by the Govt. servant at the time of appointment and accepted by the appropriate authority on production as far as possible, of confirmatory documents documentary evidence such as High School or Higher Secondary or Secondary School certificate or extracts from Birth Register. As per school certificate the date of birth of the applicant was 4.4.49 and is to retire on 5.4.2009 instead of 30.9.2003. Thus, thereby the authority wrongly determined the retirement age of the applicant by fixing the date of retirement as on 30.9.2003.

4.12. That in view of the facts and circumstances stated above the Govt. decision to the effect retiring the applicant on 30.9.03 reflected in impugned letter dt. 6.2.2003 is liable to be quashed and the applicant is entitled to continue in his service and to retire w.e.f. 5.4.2009.

4.13. That this application has been filed bonafide and in the interest of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:-

5.1. For that prima facie the action of the respondents more particularly Respondent No.3 in not disposing the representation dated 25.2.94 made by the applicant and not making any inquiry or correcting the age and subsequently takes a decision to retire the applicant as on 30.9.2003 instead of 5.4.2009 is illegal and arbitrary and same is in violation of the provisions of Administrative Rules as well as law holding in the field.

5.2. For that the entering the date of birth incorrectly in the Service Book of the applicant by the authority is total non-application of mind which effect seriously in the service of the applicant.

5.3. For that the applicant having been confirmed in his services on 25.6.76 after due submission of school certificate of age to the Respondent No.2 should not have been determined wrongly his age of retirement w.e.f. 30.9.2003.

5.4. For that the action of the respondents so as to determination of retirement age of the applicant by ignoring the actual date of birth on the basis of school certificate declared by the applicant at the time of appointment is not in proper and same is against the provisions of Fundamental Rules.

5.5. For that the applicant has the right to be established with a correct and actual date of birth and the respondents have the duty and obligation to act in conformity with the

IR
Original above

provisions of Fundamental Rules and to correct the date of birth if any mistake therein.

5.6 For that the action of the respondent No.3 in not considering the request made in reasonable time by the applicant for correction of the date of birth in Service Book, if any, is total violation of provisions of Fundamental Rules.

6. DETAILS OF REMEDIES EXHAUSTED:-

That the applicant states that he has no other alternative and efficacious remedy except by way of approaching this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:-

The applicant further declares that no other application, writ petition or suit in respect of subject matter of the instant application is filed before any other Court or Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:-

8.1. To quash the letter dated 6.2.2003 as well as the action of the respondents contained and contemplated therein trying to superannuate the applicant w.e.f. 30.9.03.

8.2. Further mandate/direction to Respondents to treat the applicant's date of retirement to be 5.4.2009 and allow the applicant to serve in his post until 5.4.2009 with all consequential benefit.

8.3. Pass such other order or orders as may be deemed fit and proper under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:-

Pending disposal of the Original Application be further pleased to direct the respondent not to disturb the applicant and to allow him to serve in his post as postman.

10. PARTICULARS OF THE I.P.O.:-

- i) I.P.O. No. 86490802
- ii) Date: 29.5.03
- iii) Payable at Guwahati.

11. LIST OF ENCLOSURES:-

As stated in the Index.

Verification.....

VERIFICATION

I, Md. Joynal Abedin, Son of late Saman Ali
at present post man, Rajapara Sub-Post Office, Goalapara,
District - Goalpara, Assam, aged about 5½ years, do hereby
solemnly affirm and verify that the statements made in
paragraphs 4.1, 4.5, 4.6, 4.7, 4.9, 4.10 and 4.11 are true
to my knowledge, those made in paragraphs 4.2, 4.3, 4.4 and
4.8 are true to my information derived from records which
I believe to be true and the rests are my humble submissions
before this Hon'ble Tribunal and I sign this verification
on this the 10th day of May, 2003 at Guwahati.

Joynal Abedin
Signature.

ANNEXURE - 1

OFFICE OF THE INSPECTOR OF POST OFFICES,
GOALPARA SUB-DIVISION.

Memo No. B2/Postman Dated the 8th September' 1973

On successfor completion of training the following candidates for Postmen and Village Postmen allotted to this Sub-Division will join the following Posts noted against them.

	<u>Name of the candidates</u>	<u>posts.</u>
1)	Shri Jogesh Chandra Barman	Village Postman, Chunari EDBO
2)	Shri Joynal Abedin	Postman, Matia S.O.
3)	Shri Mayenuddin Sarkar	Postman, Mankachar S.O.

Consequent to the above orders, the following orders are issued :-

- 1) On being relieved by Shri Jogesh Chandra Barman, Shri Ahar Ali, candidate Postman, Offg at Chunari EDBO as Village Postman will join as Postman, Baladmari S.O. relieving Shri Dewan Harmuz Ali, Class IV candidate, offg. as Postman at Baladmari S.O.
- 2) On relief Shri Dewan Harmuz Ali, will join as Packerman, Baladmari S.O. relieving Shri Jogat Chandra Das, L/R Class IV who on relief will remain attached to Baladmari S.O. till further orders.
- 3) On being relieved by Shri Jaynal Abedin, Shri Kulada Mohan Das Class IV candidate, offg as Postman, Matia S.O. will join as runner, Matia-Dudnailine relieving Shri Bani Kanta Rabha, L/R Class IV who on relief will remain attached to Matia S.O. till further order.
- 4) On being relieved by Shri Mayenuddin Sarkar, Shri Paresh Chandra Seal, Class IV candidate, Offg, as Postman, Mankachar, S.O. will join as runner Lakhipur Jaleswar line relieving Shri Sirabuddin Sheikh, runner Lakhipur- Jaleswar line.
- 5) On relief Shri Sirabuddin Sheikh will join as runner, Salmara South S.O. relieving Shri Chotelal Garia, Packer, AMC Rd. S.O. and offg.runner Salmara South S.O. who on relief will seek posting order from the Inspector of Post Offices Dhubri Sub-Division, Dhubri.

contd/-2.

-2-

Sd/-

(A.B.SEN)
Inspector of Post Offices
Goalpara Sub-Division.

Copy issued for information to:-

- 1) The Postmaster, Tura H.O.
- 2 to 6) The Sub-Postmaster, Matia S.O./Mankachar, S.O./Balad-mari, S.O./Lakhipur S.O. and Salmara South S.O.
- 7 to 8) Branch Postmasters, Chunari EDBO/Jaleswar E.D.B.O.
- 9 to 19) Officials concerned
- 20) Spare.

Sd/-

Inspector of Post Office
Goalpara Sub-Division.

Certified to be true

Manjula Das
Advocate

30/5/03

Annexure -II

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

From:-

To

Inspector of Post Offices
Goalpara Sub-Division.

Sri Joynal Abedin
Postman - Chunari

Sl.No.A - 1/CR

Dated the Goalpara.
3.5.75.

Subj P.V.A. & Declaration.

1. Please fill up and sign the enclosed declaration
form and return the same by regd. post.
2. Please submit your school Certificate by regd. post.
3. Please furnish the following information by regd. post.
 - 1) Father's name :
 - 2) Residence :
 - 3) P.O. :
 - 4) P.S. :
 - 5) District :

sd/

Inspector of Post Offices
Goalpara Division.

certified to be true

MD
Selvaratnam
30/5/03

Annexure - II

Duplicate of T. & No. 92 Dt. 12.1.62.

Off. P. 7/s. Memo No. 168 Dt. 6.1.62.

Assam Schedule XLT (Part I) Form No.

No. 2

Lengthsinga Govt. Aided M. E. School.

P. O. LENGTHSINGA DIST. GOALPARA.

Certified that Md. Joynal Albedin, son/daughter of
 Md. Saman Ali Miah, an inhabitant of ~~Assam~~ Dibruri
 left the Lengthsinga M.E. School on 12-1-1962.
 His/Her age at that date according to the Admission Register was
 12 (twelve) years 9 (Nine) months 8 (eight) days. He/
 She was reading in class VI (six) and ~~HAD NOT PASSED~~ the Examination for
 Promotion to class VII (seven).

All sums due by him have been paid :— viz fees and fines
 upto Dec/61.

Attendance..... Regular.....

Character..... Good.....

Reasons for leaving :—

(i) Unavoidable change of residence.
 (ii) Ill health.
 (iii) Completion of the school course.
 (iv) Minor reasons.

Dated Lengthsinga

The 21.5.1975

Headmaster, M. E. S.

Lengthsinga School.

Lengthsinga Govt. Aided M. E. School

Lengthsinga District.

Certified to be true

Md.

Alberdin

30/5/03

ANNEXURE - IV

INDIAN P & T DEPARTMENT

Office of the Inspector of Post Offices
Goalpara Sub-Division.
Goalpara - 78301

Memo No. B/1/Staff/76-77 dated Goalpara 25-6-76.

Following officials are hereby confirmed against the post shown against each on 1.6.76. Officials will however continue to work where they are at present working.

Name	Post against which confirmed
1. Sri Pradip K. Nath, Off. Post man Baladmar	work at Krishnai
2. Sri Jagesh Ch. Barman Off. working Lakhimpur	work at Lakhimpur
3. Sri Joynal Abedin Off. work at Chunari	work at Chunari

Sd/-

Inspector of Post Offices
Goalpara Sub-Division
Goalpara -783101.

Copy to:-

1. The P.M.
2. Officials concerned Sri Joynal Abedin
3. S/F

Sd/-

Inspector of Post Offices
Goalpara Sub-Division,
Goalpara-783101.

Certified to be true

M.D.
Administrator
30/5/13

ANNEXURE V.

To

The Supdt. of Posts, Goalpara Dvn. Dhubri
Through the Sub Postmaster, Rajapara
Dated Rajapara the 25th February, 1994.

Sub: Date of Superannuation.

Sir,

With due respect I beg to state you that according to my date of Birth on 4.4.49 I am to retire on 31.3.2007. I submitted Original School Certificate when I entered in Postman Cadre. My age was 12 years 9 months 8 days on 12-1-62 as per my School Certificate. I joined as Postman on 19-9-73. But it is seen from the GPF Final Withdrawal Section memo my date of superannuation has been shown as on 30-9-2001 by Dhubri H.O.

I, therefore, request you kindly to look into the matter and arrange to correct the same if there is any mistake of my date of Birth in service book.

And obliged me there by.

Yours faithfully,

Sd/-

Jaynal Abedin
Postmaster, Rajapara

Copy to:-

Supdt. of Posts,
Goalpara Division,
Dhubri.

Jaynal Abedin
Postmaster, Rajapara

Certified to be true

MD.
Advocate
30/5/03

73
62
1

9/2/03
OK-02-03
2. 2/03
2. 2/03

REGISTERED
6/1/03

DEPARTMENT OF POSTS, INDIA

From :-

Supdt. of Post Offices
Goalpara Divn, Dhubri
783301

To

The S.D. / ASPOS
~~6/1/03~~

No. - 02 / Joyntor Abdin, Dated at Dhubri the 6-2-2003

Sub : - Pension papers of Shri Joyntor Abdin,
Postman, Rajapara, SO,
due to retire on superannuation w.e.f. 30-7-2003 (A/N)

Kindly obtain and submit following papers/documents duly complete and attested so as to reach this office before

A set of pension forms are enclosed.

Requirements:

1. ✓ Three passport size joint photographs.
2. ✓ Three slips bearing height and identification marks.
3. ✓ Thumb impression of specimen signature in quadruplicate.
4. ✓ Form - 3
5. ✓ Form - 5
6. ✓ P.W. Final withdrawal form in duplicate.
7. ✓ Annexure - C in duplicate (to be signed over Revenue Stamp).
8. ✓ Nomination for DCRG.
9. ✓ Form 1A - Communication of pension.
10. ✓ Form A Nomination for Pension.

Enclos : - AS stated.

Sdy
Supdt. of Post Offices
Goalpara Divn, Dhubri

Copy to :-

1. The Postmaster, Dhubri / Kokrajhar H.O. He will forward Service Book / Provisional L.P.C. / Monetary responsibility certificate of the official so as to reach by this office before

shri ... Joyntor Abdin ... Postman
... Rajapara ...

for information.

certified to be

True

Mr.

Subsidiary

30/5/03

Supdt. of Post Offices
Goalpara Divn, Dhubri

&&&&&&

18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::GUWAHATI

8th AUG

In the matter of :-
O.A. No.118 of 2003
Md. Joynal Abedin .. Applicant
-Versus-
Union of India & Ors.
... Respondents

Adv. Counsel: C.M.
Solicitor: B.M.

WRITTEN STATEMENTS FOR AND ON BEHALF OF
RESPONDENTS NOS.1,2,3 & 4.

J.C. HAZARIKA
I, ~~Sub Inspector~~, Superintendent of Post Offices,
Goalpara Division, Dhubri, do hereby solemnly affirm and say as
follows :-

1. That I am the Superintendent of Post Offices, Goalpara Division, Dhubri and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statements may be deemed to have been denied. I authorised to file the written statements on behalf of all the respondents.
2. That the respondents have no comments to the statements made in paragraph 1,2,3 and 4.1 of the application.
3. That the statements made in paragraph 4.2 of the application is partially correct. The applicant was working as E.D.A.(Branch Postmaster) Kushbari B.O. in account with Abhayapuri Sub-Post Office prior to his appointment as Postman.
4. That with reference to the statements made in paragraph 4.3 of the application, the respondents beg to state that while the applicant was working as E.D.A.(Branch Postmaster) Kushbari, he had submitted Attestation Form containing his full Particulars including date of birth, Name of School where he read since 15 years of age, Date from and upto which he read in the school and Examination passed. He was identified in the Identity Certificate dated 16-6-1969 issued by Mr. K.N. Banikya, MLA, L.A.-42, Abhayapuri.

(2)

Declaration for appointment an Descriptive particulars were duly signed by him and attested by the President Mererchar Gaon Sabha, P.O. Langtisinga Dist-Goalpara, dated 15-8-1969 duly countersigned by the then Inspector of Post Offices, Dhubri dated 18-10-1969. The applicant declared and written his date of birth in the Attestation Form (Item 7(a)) as 5-3-1943. In the Descriptive particulars Form dated 15-8-1969 the applicant declared and written his age on 15-8-1969 as 26 years 5 months 9 days (Present). Accordingly his actual date of birth comes after a calculation as 7-3-1943. The character and antecedent of the applicant as per his Declaration in the Attestation Form dated 10-6-69 in the capacity of E.D.A. (Branch Postmaster) Kushbari were duly verified by the Police Authority dated 23-11-1969.

After his appointment as Postman on promotion, no such school Certificate stating date of birth as 4-4-1949 has since been submitted. No prayer for correction of date of birth recorded in the Service Records was made by the applicant.

5. That with reference to the statements made in paragraph 4.4 of the application, the respondents beg to state that confirmation of service of the Govt. servants were made as per Departmental Rules.

6. That with reference to the statements made in paragraph 4.5 of the application, the respondents beg to state that the date of Superannuation was determined from the 1st page Entry of the Service Book duly admitted by Mr. ~~Maxak~~ the applicant dated 21-12-1974 with his signature and attested by the Appointing Authority dated 21-12-1974. His date of birth was declared and admitted in the Service Book as 5-9-1943 (in words and figure). Thus the date of Superannuation was correctly written as 30-9-2003.

7. That with reference to the statements made in paragraph 4.6 of the application, the respondents beg to state that no such prayer was received by the Supdt. of Post Offices, Goalpara Division, Dhubri.

8. That with reference to the statements made in paragraph 4.7 of the application, the respondents beg to state that this is not based on fact. The 1st page entry in the Service Book was made and written in presence of the applicant with his signature and Thumb and Finger impressions taken on 21-12-1974 duly attested by the Appointing Authority.

(3)

In the Gradation lists of the Officials the date of birth and date of entry in the service of the applicant were also recorded as 5-9-1943 and 19-9-1973 respectively. Thus the entries in the Service Records of the applicant which stood the test of time remained Unchallenged.

9. That with reference to the statements made in paragraph 4.8 of the application, the respondents beg to state that the Supdt. of Post Offices, Goalpara Division, Dhubri being the Pension Sanctioning Authority acted upon under the C.C.S.(Pension)Rules, of Govt. of India.

10. That with reference to the statements made in paragraph 4.9 of the application, the respondents beg to state that the 1st page Entry of the Service Book including the date of birth of the Official was recorded by the Appointing Authority in terms of Rule 288 of P&T Financial Hand Book Volume-1. Thus the allegation is not based on fact and order.

11. That with reference to the statements made in paragraph 4.10 of the application, the respondents beg to state that no such Rule is available in S.R. No such request for alteration of date of birth under F.R.-56 from the applicant was received.

12. That with reference to the statements made in paragraph 4.11 of the application, the respondents beg to state that the date of birth of the applicant was properly recorded in the 1st page of the Service Book in terms of F.R.-56 and Rule 288 of P&T Financial Hand Book Volume-1. Accordingly the date of superannuation was correctly calculated.

13. That with reference to the statements made in paragraph 4.12 of the application, the respondents beg to state that as per relevant records of the applicant, the date of superannuation stands to be 30-9-2003 (A/N).

14. That the respondents have no comments to the statements made in paragraph 4.13 of the application.

15. That with reference to the statements made in paragraph 5.1 of the application, the respondents beg to state that no request for alteration of date of birth was received by the Supdt. of Post Offices, Goalpara Division, Dhubri till issue of letter dated 6-2-2003 for collection of pension papers.

Contd..p/4-

(4)

16. That with reference to the statements made in paragraph 5.2 of the application, the respondent beg to state that not correct.

17. That with reference to the statement made in paragraph 5.3 of the application, the respondent beg to state that the confirmation of service no certificate regarding academic qualification or certificate of age are required.

18. That with reference to the statement made in paragraph 5.4 of the application, the respondent beg to state that not correct.

19. That with reference to the statement made in paragraph 5.5 of the application, the respondent beg to state that the authority acted in right direction under the Departmental Rules.

20. That with reference to the statement made in paragraph 5.6 of the application, the respondent beg to state that the allegation is not just and proper.

21. That the respondents have no comments to the statement made in paragraph 6, 7, 8 & 9 of the application.

22. That the respondents beg to state that the claim of the applicant for correction of the date of birth (5-9-43) entered in the 1st page of his Service Book is barred by law as such claim was not preferred by him within 5(five) years of his entry in the Service on 19-9-73 as per Note-6 below FR-56. The claim of the applicant on the strength of the school certificate issued by the Headmaster of Lengtisingha Govt. Aided M.E. School is not maintainable for the fact that the certificate was issued only on 21-5-75 and produced after 1st page of the applicant's Service Book was written up and attested on 21-12-74. The applicant accepted the entry of his date of birth duly signing the same.

23. That the respondent beg to state that as regards ~~the~~ particulars of documents/certificate on the basis of which the date of birth was recorded in the 1st page of Service Book as pointed out in the Para-3 of the Chief Postmaster General Guwahati letter dtd. 15-7-2003 this is to mention that the 1st page was filled up by the appointing authority in terms of

22-
32

Rule 288 (c) & 288(d) of P & T Financial Hand Book Vol.-I which stipulates that the appointing authority should fill in and attest the descriptive particulars on the 1st page. The particulars were filled from the personal knowledge of the appointing authority of the newly appointed Govt. Servant on the basis ~~as~~ of documents/certificate produced at the time of filling up and attestation dtd. 21-12-74. No document/certificate is found available at present.

24. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, G.C. Hazarika, presently working as Superintendent of Post Offices, Goalpara Division, Dhubri being the duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statement made in paragraph

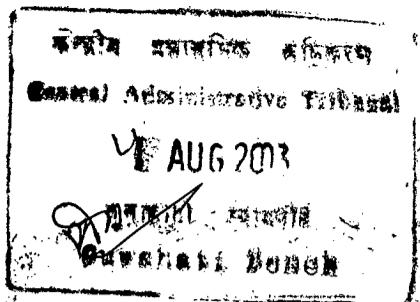
1, of the application are true to my knowledge and belief, those made in paragraphs 2 - 24 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

AND I sign this verification on this the 6th day
of August 2003

DEPONENT

Sri Ganesh Chandra Hazarika
Supdt. of Post Offices
Goalpara Divn. Dhubri
783 301

0000



Filed by : -
Joynal Abedin
Applicant
through
Maminder Dass
Advocate
3/9/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI.

O.A. NO. 118 OF 2003

Md. Joynal Abedin.

..... Applicant.

- Vs -

Union of India & Ors.

..... Respondents.

The Rejoinder to the Written Statement filed by Respondents Nos. 1, 2, 3 and 4.

The humble applicant most respectfully begs to state as follows :-

1. That the applicant has gone through the copy of the written statement filed on behalf of the Respondents Nos. 1 to 4 and noted the contents thereof.
2. That save and except the facts which are specifically admitted hereinbelow, all other statements made in the rejoinder are categorically denied.
3. That in reply to the contents in paragraph 4 of the written statement it is most respectfully stated that on 9.6.67 the applicant was offered a post of extra departmental agent (E.D.A.) at Kushbari, Goalpara Sub-Division and thereafter on successful completion of training he was allotted to the post of Postman at Matia, vide order dated 8.9.73. The

Contd.....

The contents stated in the said paragraph are not correct. He denied that he put signatures on 10.6.69 and 15.8.69 in the papers i.e. Declaration form, Descriptive particulars and in attestation form as stated by the respondents. He never had any occasion to put his signature as stated by the respondents.

It is to be stated here that with due permission of the Hon'ble Tribunal the Learned Counsel on behalf of the applicant perused the records produced by the respondent and the applicant has come to know that the record contains some paper/documents on which basic his date of birth has been recorded by the authority.

It is surprising that in Declaration form and Descriptive particulars produced by the respondent, the name and signatures in that papers shown as JOYNAL ABDIN AHMED. In fact the applicant never use any capital letters except first letter as and when signature requires. Further his title is not Ahmed, Same in the case of ATTESTATION FORM, here also his signature appears as Joynal Abedin Ahmed.

In this form two signatures appear, one as Joynal Abedin Ahmed and other one as Joynal Abdin Ahmed dated 10.6.69. In this form the entry of date of birth is shown as 5.3.43.

Further, he had never any occasion to give any thumb impression on 15.8.69 as appear in the records, here his name and signature appear as JOYNAL ABDIN AHMED. All from above it is crystal clear that all the signatures appear in the above papers, contained in the records, submitted by the

respondents are not the signatures of the applicant.

Further the applicant categorically denied that he never produced the school certificate. It is replied that in fact he produced the original school certificate showing his age at the time of appointment. He also made application for correction of date of birth immediately after knowledge of wrong entry of his date of birth.

It is pertinent to mention here that after regular appointment of the applicant in 1973 and as directed by the Inspector of the Post Offices (Respondent No.4), Goalpara - Division vide letter dated 3.5.75 as annexed in original application as Annexure-II, the applicant submitted duly filed up Declaration form and school certificate dated 21.5.76 before the authority before and thereafter his service was confirmed vide order dated 25.6.76.

4. That in reply to the contents in paragraphs 6 to 8 of the written statement your humble applicant most respectfully states that the contents therein are not correct. The authority dis not take any signature from the applicant when service Book was opened. As per service Rule the Service Book of Govt. Servant shall have to be opened after taking due signature of the person concern but in the instant case till today no signature has been taken from the applicant. In Service Roll as a signature dated 21.12.74 appears against the place of signature of Govt. Servant but in fact that was not the signature of the applicant where in the date of birth shown as 5.9.43. The said service book was opened without the applicant's presence and due signature of the applicant.

The gradation list neither published nor served to the person concern so as to enable to object if any.

Further he immediately made his representation dated 25.2.94 after coming to know the wrong entry of date of birth but that was also not in office record as stated by the respondents . Thus thereby it is established the wrong management and improper maintenance of the Govt. documents/papers of the Govt. Servant.

5. That in reply to the contents made in paragraph 9 to 23 it is replied that the date of birth of the applicant was recorded wrongly as 5.9.43. He never showed the date of birth as 5.9.43 rather he produced the original school certificate, dated 25.6.76 (Annexure UV to the application). He reiterate and re-affirm the statements that he duly submitted his age certificate by showing 4.4.49 at the time of his appointment. It is unfortunate that all the documents and papers including the corresponding letter for confirmation dated 3.5.76 and 25.6.76 along with the school certificate are not available in the office record which were submitted by the applicant long back.

6. That the applicant begs to state that he had an impression that his date of birth might have been corrected by The authority and if not, then definitely there would have been any reply. The applicant only read upto Class VIII and is ignorant

-5-

about the consequences for not having the application in proper time in appropriate forum . Hence your Lordship's may be pleased to condone the ^{if any} delay caused in filing the application .

7. That under the facts and circumstances of the case the original application deserves to be allowed by quashing the impugned letter dated 6.2.2003.

Verification.....6

V E R I F I C A T I O N

I, Md. Joynal Abedin, son of late Saman Ali
at present post man, Rajapura, Sub-post office, Goalpara,
District Goalpara, Assam, aged about 54 years do hereby
solemnly affirm and verify that the statements made in
paragraph 1, 2, 5, 6 are true to my knowledge, those made
in paragraph 3 and 4 are true to my information derived
therefrom which I believe to be true and the rests are
humble submission before this Hon'ble Tribunal and I sign
this verification on this the 29th August, 2003 at Guwahati.

• *Joynal abedon*
Signature.